

List of Authorities and References

The legal authorities that guide the structure, development, and implementation of the National Response Framework (NRF) are statutes, regulations, Executive orders, and Presidential directives, and they are listed and summarized below. This list and the associated summaries are not exhaustive and should not be used as a substitute for the authorities themselves. The statutes and regulations are organized by subject matter, except for some principal emergency authorities that are listed first. The Executive orders of the President and the Homeland Security Presidential Directives (HSPDs) are listed separately.

I. Statutes and Regulations

A. Principal Emergency Authorities

1. The Homeland Security Act of 2002, Pub. L. No. 107-296, 116 Stat. 2135 (2002) (codified predominantly at 6 U.S.C. §§ 101-557), as amended with respect to the organization and mission of the Federal Emergency Management Agency in the Department of Homeland Security Appropriations Act of 2007, Pub. L. No. 109-295, 120 Stat. 1355 (2006), established a Department of Homeland Security as an executive department of the United States. The Homeland Security Act consolidated component agencies, including the Federal Emergency Management Agency (FEMA), into the Department. The Secretary of Homeland Security is the head of the Department and has direction, authority, and control over it. All functions of all officers, employees, and organizational units of the Department are vested in the Secretary.

The primary missions of the Department are to:

- Prevent terrorist attacks within the United States;
- Reduce the vulnerability of the United States to terrorism;
- Minimize the damage, and assist in the recovery, from terrorist attacks that do occur within the United States;
- Carry out all functions of entities transferred to the Department, including by acting as a focal point regarding natural and manmade crises and emergency planning;
- Ensure that the functions of the agencies and subdivisions within the Department that are not related directly to securing the homeland are not diminished or neglected except by specific explicit Act of Congress;
- Ensure that the overall economic security of the United States is not diminished by efforts, activities, and programs aimed at securing the homeland;
- Ensure that the civil rights and civil liberties of persons are not diminished by efforts, activities, and programs aimed at securing the homeland; and
- Monitor connections between illegal drug trafficking and terrorism, coordinate efforts to sever such connections, and otherwise contribute to the efforts to interdict illegal drug trafficking.

The primary mission of FEMA is to reduce the loss of life and property and protect the Nation from all hazards, including natural disasters, acts of terrorism, and other manmade disasters, by leading and supporting the Nation in a risk-based, comprehensive emergency management system of preparedness, protection, response, recovery, and mitigation. The FEMA Administrator therefore is assigned responsibility to:

- Lead the Nation's efforts to prepare for, protect against, respond to, recover from, and mitigate against the risk of natural disasters, acts of terrorism, and other manmade disasters, including catastrophic incidents;
- Partner with State, local, and tribal governments and emergency response providers, other Federal agencies, the private sector, and nongovernmental organizations to build a national system of emergency management that can effectively and efficiently utilize the full measure of the Nation's resources to respond to natural disasters, acts of terrorism, and other manmade disasters, including catastrophic incidents;
- Develop a Federal response capability that, when necessary and appropriate, can act effectively and rapidly to deliver assistance essential to saving lives or protecting or preserving property or public health and safety in a natural disaster, act of terrorism, or other manmade disaster;
- Integrate the Agency's emergency preparedness, protection, response, recovery, and mitigation responsibilities to confront effectively the challenges of a natural disaster, act of terrorism, or other manmade disaster;
- Develop and maintain robust Regional offices that will work with State, local, and tribal governments, emergency response providers, and other appropriate entities to identify and address regional priorities;
- Under the leadership of the Secretary, coordinate with the Commandant of the Coast Guard, the – Commissioner of Customs and Border Protection, the Assistant Secretary of Immigration and Customs Enforcement, the National Operations Center, and other agencies and offices in the Department to take full advantage of the substantial range of resources in the Department;
- Provide funding, training, exercises, technical assistance, planning, and other assistance to build tribal, local, State, regional, and national capabilities (including communications capabilities), necessary to respond to a natural disaster, act of terrorism, or other manmade disaster; and
- Develop and coordinate the implementation of risk-based, all-hazards strategy for preparedness that builds those common capabilities necessary to respond to natural disasters, acts of terrorism, and other manmade disasters while also building the unique capabilities necessary to respond to specific types of incidents that pose the greatest risk to our Nation.

Among other duties, the Homeland Security Act also assigns certain responsibilities to the Administrator specific to the National Response Plan (NRP) and the National Incident Management System (NIMS), including: building a comprehensive national incident management system with Federal, State, and local government personnel, agencies, and authorities, to respond to attacks and disasters; consolidating existing Federal emergency response plans into a single, coordinated national response plan; and administering and ensuring the implementation of the National Response Plan, including coordinating and ensuring the readiness of each emergency support function under the National Response Plan .

2. **The Robert T. Stafford Disaster Relief and Emergency Assistance Act**, Pub. L. No. 93-288, 88 Stat. 143 (1974), codified in 42 U.S.C. §§ 5121-5206 (2005), was also amended in the Department of Homeland Security Appropriations Act of 2007, Pub. L. No. 109-295, 120 Stat. 1355 (2006), particularly Title VI, the Post-Katrina Emergency Management Reform Act of 2006 (discussed below). The Stafford Act describes the programs and processes by which the Federal Government provides disaster and emergency assistance to State and local governments, tribal nations, eligible private nonprofit organizations, and individuals affected by a declared major disaster or emergency. The Stafford Act covers all hazards, including natural disasters and terrorist events.

Declarations Process

- The Stafford Act and its implementing regulations at 44 C.F.R § 206 set forth a process for a Governor to request the President to declare a major disaster or emergency:
 - If an event is beyond the combined response capabilities of the State and affected local governments; and
 - If, based on the findings of a joint Federal-State-local Preliminary Damage Assessment (PDA), the damages are of sufficient severity and magnitude to warrant assistance under the Stafford Act. In a particularly fast-moving or clearly devastating disaster, there may be an expedited declaration, and the PDA may be deferred until after the declaration.
- The President may direct emergency assistance without a Governor's request if an incident occurs that involves a subject area that is exclusively or preeminently the responsibility of the United States. The President will consult the Governor of any affected State, if practicable.
- FEMA may provide accelerated Federal assistance and support where necessary to save lives, prevent human suffering, or mitigate severe damage, even in the absence of a specific request (the Governor of the affected State will be consulted if practicable, but this consultation shall not delay or impede the provision of such rapid assistance).

Response Process

- Before a major disaster or emergency declaration, the Stafford Act authorizes FEMA to pre-deploy personnel, who may be from various Federal agencies, and equipment to reduce immediate threats to life, property, and public health and safety, and to improve the timeliness of its response.
- The Stafford Act requires the President to appoint a Federal Coordinating Officer (FCO) immediately upon the declaration of a major disaster or emergency to coordinate the delivery of Federal assistance to the affected State and local governments, tribal nations, eligible private nonprofit organizations, and individuals affected by a declared major disaster or emergency.
- The Stafford Act was amended by Section 607 of the Security and Accountability for Every (SAFE) Port Act of 2006, Public Law 109-347, to provide that an "essential service provider" will not be denied or have access impeded to the disaster site whose access is necessary to restore and repair an essential service; or impede the restoration or repair of the services of an "essential service provider." Under the amendment an "essential services provider" means an entity that provides: telecommunications service; electrical power; natural gas; water and sewer services; or any other essential service, as determined by the President; and is a municipal entity; a nonprofit entity; or a private, for-profit entity; and is contributing to efforts to respond to an emergency or major disaster.

Recovery

- The Stafford Act provides temporary housing and other assistance to eligible individuals and households who have basic and essential needs as a result of the major disaster or emergency.
- The Stafford Act provides assistance to public and certain nonprofit entities that have disaster-related damage.

- The Stafford Act prohibits the duplication of benefits from other sources, such as insurance.

3. **The Post-Katrina Emergency Management Reform Act (PKEMRA)**, which is Title VI of the Department of Homeland Security Appropriations Act, 2007, Pub. L. 109-295, 120 Stat. 1355 (2006), clarified and modified the Homeland Security Act with respect to the organizational structure, authorities, and responsibilities of FEMA and the FEMA Administrator. In addition to these modifications, PKEMRA made changes – some appearing in the Homeland Security Act and the Stafford Act – directing FEMA, among other things, to:

- Establish a Disability Coordinator and develop guidelines to accommodate individuals with disabilities;
- Add disability and English proficiency to the list of provisions requiring nondiscrimination in relief and assistance activities;
- Establish the National Emergency Family Registry and Locator System to reunify separated family members and assist in establishing the National Emergency Child Locator Center to locate missing children after a major disaster or emergency;
- Coordinate and support precautionary evacuations and recovery efforts;
- Provide transportation assistance for relocating and returning individuals displaced from their residences in a major disaster;
- Provide rescue, care, shelter, and essential needs assistance to individuals with household pets and service animals as well as to such pets and animals;
- Provide case management assistance to identify and address unmet needs of victims of major disasters;
- Note: Federal agencies shall not: deny or impede access to the disaster site to an essential service provider whose access is necessary to restore and repair an essential service; or impede the restoration or repair of essential services, to include telecommunications service, electrical power, natural gas, water and sewer services, or any other essential service, as determined by the President; and
- Receive input from a National Advisory Council, including State and private sector members, about the development and revision of the National Response Framework and other related plans or strategies.

4. **The Public Health Service Act**, 42 U.S.C. §§ 201, *et seq.* (2005), as amended, provides that the Secretary of the Department of Health and Human Services may declare a public health emergency and take action under certain circumstances, including bioterrorism and the introduction, transmission, or spread of communicable diseases.

5. **Flood Control and Coastal Emergencies Act**, 33 U.S.C. § 701n (2005) (commonly referred to as Public Law 84-99), authorizes an emergency fund for preparation for emergency response to, among other things, natural disasters, flood fighting and rescue operations, repair or restoration of flood control and hurricane protection structures, temporary restoration of essential public facilities and services, and provision of emergency supplies of water.

6. **The Defense Production Act of 1950 (DPA)**, 64 Stat. 798 (1950) (codified at 50 U.S.C. App. §§ 2061, *et seq.* (2005)), is the primary authority to ensure the timely availability of resources for national defense and civil emergency preparedness and response.

- 1 7. **The Economy Act**, 31 U.S.C. §§ 1535-1536 (2005), authorizes Federal
2 agencies to provide goods or services, on a reimbursable basis, to other Federal
3 agencies when more specific statutory authority does not exist.
- 4 8. **The National Emergencies Act**, 50 U.S.C. §§ 1601-1651 (2005), establishes
5 procedures for Presidential declaration of a national emergency and the
6 termination of national emergencies by the President or Congress.
- 7 9. **The Restoration Act** (formerly Insurrection Act), 10 U.S.C. §§ 331-335
8 (2005), authorizes the President to use the armed forces to suppress an
9 insurrection, domestic violence, unlawful combination, or conspiracy in any
10 State; enforce the laws of the United States; suppress rebellions against the
11 authorities of the United States; and restore public order.
- 12 10. **The Communications Act of 1934**, 47 U.S.C. §§ 151-615b (2005),
13 authorizes the Federal Communications Commission (FCC) to grant special
14 temporary authority on an expedited basis to operate radio frequency devices,
15 allowing a Federal agency to broadcast public service announcements during
16 the immediate aftermath of an emergency or major disaster.
- 17 11. **The Small Business Act**, 15 U.S.C. §§ 631-651e (2005), authorizes the Small
18 Business Administration to maintain and strengthen the Nation's economy by
19 aiding, counseling, assisting, and protecting the interests of small businesses,
20 and by providing disaster loans to help families and businesses recover from
21 incidents, such as major disasters and emergencies.
- 22 12. **The Immigration and Nationality Act** in section 404(b)(1), 8 U.S.C. § 1101
23 note, establishes an Immigration Emergency Fund that can be drawn upon to
24 increase immigration enforcement activities, and to reimburse States and
25 localities in providing assistance as requested by the Secretary of the DHS in
26 meeting an immigration emergency declared by the President.
- 27 13. **Section .085 of Title 28, Code of Federal Regulations**, designates the
28 Federal Bureau of Investigation as the agency with primary responsibility for
29 investigating all crimes for which it has primary or concurrent jurisdiction and
30 which involve terrorist activities or acts in preparation of terrorist activities
31 within the statutory jurisdiction of the United States. This authority includes
32 the collection, coordination, analysis, management, and dissemination of
33 intelligence and criminal information as appropriate.
- 34 14. **The Illegal Immigration Reform and Immigrant Responsibility Act of**
35 **1996**, Pub. L. No. 104-208 (1996), as amended by the REAL ID Act, Pub. L.
36 No. 109-13 (2005) and the Secure Fence Act, Pub. L. No. 109-367 (2006),
37 allows the Secretary of Homeland Security to waive all legal requirements to
38 ensure expeditious construction of physical barriers and roads (including the
39 removal of obstacles to detection of illegal entrants) in the vicinity of the U.S.
40 border to deter illegal crossings in areas of high illegal entry into the United
41 States.
- 42 15. **The Office of Federal Procurement Policy Act**, 41 U.S.C. § 428a (2004),
43 authorizes emergency procurement authorities (1) in support of a contingency
44 operation; or (2) to facilitate the defense against or recovery from nuclear,
45 biological, chemical, or radiological attack against the United States. *See also*
46 *Federal Acquisition Regulation Part 18.2.*

- 1 **16. The Emergency Federal Law Enforcement Assistance Act (EFLEA)**, 42
2 U.S.C. § 10501 (2006), authorizes the Attorney General, in a law enforcement
3 emergency and upon written request by a Governor, to coordinate and deploy
4 emergency Federal law enforcement assistance to State and local law
5 enforcement authorities.
6

7 **B. Agricultural Authorities**

- 8 **17. Section 8306 of Title 7, United States Code (2007)**, authorizes the
9 Secretary of Agriculture to declare an extraordinary emergency and take action
10 due to the presence of a pest or disease of livestock that threatens livestock in
11 the United States. Under 7 U.S.C. § 7715 (2007), the Secretary of Agriculture
12 has the authority to declare an extraordinary emergency and take action due to
13 the presence of a plant pest or noxious weed whose presence threatens plants
14 or plant products of the United States.
- 15 **18. The Cooperative Forestry Assistance Act of 1978**, 16 U.S.C. §§ 2101-2114
16 (2005), authorizes the Secretary of Agriculture to assist in the prevention and
17 control of rural fires, and to provide prompt assistance whenever a rural fire
18 emergency overwhelms, or threatens to overwhelm, the firefighting capabilities
19 of the affected State or rural area.
- 20 **19. The Animal Health Protection Act of 2002 (APHA)**, 7 U.S.C. 8310 (2007),
21 consolidates all of the animal quarantine and related laws and replaces them
22 with one flexible statutory framework. The APHA allows Animal Plant and
23 Health Inspection Service (APHIS) Veterinary Services to act swiftly and
24 decisively to protect U.S. animal health from a foreign pest or disease.
25

26 **C. Chemical, Biological, and Nuclear Authorities**

- 27 **20. The Atomic Energy Act of 1954**, 42 U.S.C. §§ 2011-2297 (2005), and the
28 Energy Reorganization Act of 1974, 5 U.S.C. §§ 5313-5316, 42 U.S.C. §§ 5801-
29 5891 (2005), provide the statutory foundations for both the Department of
30 Energy and the Nuclear Regulatory Commission (NRC), and the NRC's
31 regulation of the Nation's civilian use of byproduct, source, and special nuclear
32 materials to ensure adequate protection of public health and safety, to promote
33 the common defense and security, and to protect the environment.
- 34 **21. The Price-Anderson Amendments Act of 1988**, 42 U.S.C. § 2011 note,
35 amended the Atomic Energy Act of 1954 in order to provide for indemnification
36 of governments and individuals affected by nuclear incidents.
- 37 **22. The Defense Against Weapons of Mass Destruction Act**, 50 U.S.C. §§
38 2301-2368 (2005), enhances the capability of the Federal Government to
39 prevent and respond to terrorist incidents involving weapons of mass
40 destruction (WMDs), and provides for Federal aid to State and local emergency
41 response agencies to prevent and respond to such incidents at the national and
42 local level.
43

D. Energy Authorities

23. **The Public Utilities Regulatory Policies Act of 1978**, Pub. L. No. 95-617, 92 Stat. 3117 (1978) (codified in various sections Titles 15, 16, 30, 42 and 43 of the United States Code (2005)), and the Powerplant and Industrial Fuel Use Act of 1978, Pub. L. No. 95-620, 92 Stat. 3289 (1978) (codified as amended at 42 U.S.C. §§ 8301-8484 (2005)) authorize the President to prohibit any powerplant or major fuel-burning installation from using natural gas or petroleum as a primary fuel during an emergency.
24. **The Federal Power Act**, 16 U.S.C. §§ 791a-828c (2005), 10 C.F.R. § 205.370 (2006), authorizes the Secretary of Energy to order temporary interconnections of facilities and/or the generation and delivery of electric power to alleviate an emergency.
25. **The Department of Energy Organization Act**, Pub. L. No. 95-91, 91 Stat. 567 (1977) (codified predominantly at 42 U.S.C. §§ 7101-7385o (2005)), and the Federal Power Act, 16 U.S.C. §§ 791a-828c (2005), 10 CFR §§ 205.350, 205.353 (2006), authorize the Department of Energy to obtain current information on the electric supply systems in the United States during emergency situations so that appropriate Federal emergency response measures can be implemented in a timely and effective manner.
26. **The Energy Policy and Conservation Act**, 42 U.S.C. §§ 6201-6422 (2005), as amended by the Energy Policy Act of 1992, Pub. L. No. 102-486, 106 Stat. 2776 (1992) (as amended and codified in various sections of the U.S.C.) authorizes the President to order Federal buildings to close and/or conserve energy during an emergency. The President is also authorized to create and maintain a Strategic Petroleum Reserve (SPR) and a Northeast Home Heating Oil Reserve, and to order a drawdown of either reserve in emergency circumstances.
27. **The Natural Gas Policy Act of 1978**, 15 U.S.C. §§ 3301-3432 (2005), authorizes the President to order any interstate pipeline, local distribution company served by an interstate pipeline, or person to allocate natural gas in order to assist in meeting the needs of high-priority uses during a natural gas emergency.
28. **The Powerplant and Industrial Fuel Use Act of 1978**, 42 U.S.C. §§ 8301-8484 (2005), authorizes the President to allocate coal (and require the transportation of coal) for the use of any powerplant or major fuel-burning installation during an energy emergency.
29. **The Low Income Home Energy Assistance Act of 1981**, 42 U.S.C. §§ 8621-8629 (2005), provides the Department of Health and Human Services with discretionary funds for distribution under the Low Income Home Energy Assistance Program (LIHEAP), according to the criteria that relate to the type of emergency that precipitates their need.

E. Environmental Authorities

30. **The Comprehensive Environmental Response, Compensation, and Liability Act**, 42 U.S.C. §§ 9601-9675 (2005), and the Federal Water Pollution Control Act (Clean Water Act), 33 U.S.C. §§ 1251-1387 (2005), establish broad Federal authority to respond to releases or threats of releases of hazardous substances and pollutants or contaminants that may present an imminent and substantial danger to public health or welfare and to discharges of oil.

- 1 31. **The National Oil and Hazardous Substances Pollution Contingency Plan (NCP)**, 40 C.F.R. § 300 (2006), provides for the coordinated and integrated
2 response by the Federal Government, as well as State and local governments,
3 to prevent, minimize, or mitigate a threat to public health or welfare posed by
4 discharges of oil and releases of hazardous substances, pollutants, and
5 contaminants.
6
- 7 32. **The Resource Conservation and Recovery Act of 1976 (RCRA)**, 42 U.S.C.
8 §§ 6901-6986 (2005), which was passed as an amendment of the Solid Waste
9 Disposal Act of 1965, Pub. L. 89-272, 79 Stat. 997 (1965), authorizes the
10 Environmental Protection Agency to control hazardous waste, including the
11 generation, transportation, treatment, storage, and disposal of hazardous
12 waste. RCRA also sets forth a framework for the management of nonhazardous
13 wastes.
- 14 33. **The Oil Pollution Act of 1990**, Pub. L. No. 101-380, 104 Stat. 484 (1990)
15 (codified as amended 33 U.S.C. §§ 1203, 1223, 1321, 2701-2761 (2005)),
16 establishes mechanisms for the Federal Government to prevent and respond to
17 oil spills.
- 18 34. **The Occupational Safety and Health Act**, 29 U.S.C. §§ 651-678 (2005),
19 establishes and enforces standards to assure safe and healthful working
20 conditions for working men and women, and provides mechanisms to assist the
21 States in their efforts to assure safe and healthful working conditions.
- 22 35. **The Clean Air Act**, 42 U.S.C. §§ 7401-7671q (2005) and 40 C.F.R. § 80.73
23 (2006), authorizes the Environmental Protection Agency to temporarily permit a
24 refiner, importer, or blender to distribute nonconforming gasoline in appropriate
25 extreme or unusual circumstances that could not have been avoided.
26
27

F. Military Authorities

- 28 36. **The Posse Comitatus Act**, 18 U.S.C. § 1385 (2005), prohibits the use of the
29 Army or the Air Force for law enforcement purposes, except as otherwise
30 authorized by the Constitution or statute. This prohibition applies to Navy and
31 Marine Corps personnel by Department of Defense internal regulations. The
32 primary prohibition of the Posse Comitatus Act is against direct involvement by
33 active duty military personnel in traditional law enforcement.
- 34 37. **Section 382 of Title 10, United States Code (2005)** authorizes the
35 Attorney General to request assistance from the Secretary of Defense when
36 both the Attorney General and the Secretary of Defense agree that an
37 "emergency situation" involving biological or chemical weapons of mass
38 destruction exists and the Secretary of Defense determines that the requested
39 assistance will not impede military readiness.
- 40 38. **Section 831(a) of Title 18 of the United States Code (2005)**, authorizes
41 the Attorney General to request assistance from the Secretary of Defense when
42 both the Attorney General and Secretary of Defense agree that an "emergency
43 situation" involving nuclear materials exists and the Secretary of Defense
44 determines that the requested assistance will not impede military readiness.
- 45 39. **Military Support for Civilian Law Enforcement Agencies**, 10 U.S.C. §§
46 371-382 (2000), authorizes the United States military to assist State and local
47 law enforcement agencies without engaging in the execution of the law by
48 sharing information and expertise; furnishing equipment, supplies, and
49 services; and helping to operate equipment.

- 1 40. **Section 2567 of Title 10, United States Code (2006)**, authorizes the
2 Secretary of Defense (following a determination by the President to invoke 10
3 U.S.C. § 333(a)(1)(A) of the Restoration Act) to provide supplies, services, and
4 equipment to persons affected by a public emergency.
- 5 41. **National Guard Authority**. Under Title 10 of the United States Code, the
6 Federal Government calls up and funds the National Guard for active duty for
7 national service. Under Title 32 of the United States Code, State Governors can
8 activate and command Guard units for missions. Additionally, under 32 U.S.C.
9 § 502(f), the National Guard may be called up for Federal service while
10 remaining under the control of the Governor. National Guard forces operating
11 in a State Active Duty or Title 32 status are not subject to the Posse Comitatus
12 Act.
- 13 42. **Furnishing of Health-Care Services to Members of the Armed Forces**
14 **during a War or National Emergency**, 38 U.S.C. § 8111A (2005). During
15 and immediately following a period of national emergency declared by the
16 President or the Congress that involves the use of the Armed Forces, the
17 Secretary of Veterans Affairs may furnish hospital care, nursing home care, and
18 medical services, and give higher priority, to members of the Armed Forces on
19 active duty responding to or involved in that disaster or emergency.
- 20 43. **The Veterans Affairs Emergency Preparedness Act of 2002**, Pub. L. No.
21 107-287, 116 Stat. 2024 (2002) (amending and codified in various sections of
22 Title 38 United States Code), authorizes the Secretary of Veterans Affairs to
23 furnish hospital care and medical services to individuals responding to, involved
24 in, or otherwise affected by a disaster or emergency declared by the President
25 under the Stafford Act, or a disaster emergency in which the National Disaster
26 Medical System is activated.

27 **G. Transportation Authorities**

- 29 44. **The Maritime Transportation Security Act**, Pub. L. No. 107-295, 116 Stat.
30 2064 (2002) (codified at 46 U.S.C. §§ 70102-70117 (2005) and various
31 sections of the United States Code), requires sectors of the maritime industry
32 to implement measures designed to protect America's ports and waterways
33 from a terrorist attack, and requires the Secretary of Homeland Security to
34 submit a National Maritime Transportation Security Plan (NMTSP) providing for
35 efficient, coordinated, and effective action to deter and minimize damage from
36 a transportation security incident.
- 37 45. **The Magnuson Act**, 50 U.S.C. § 191 (2004), authorizes the President to
38 regulate the movement of vessels in U.S. waters during times of national
39 emergency.
- 40 46. **The Ports and Waterways Safety Act of 1978**, Pub. L. No. 95-474, 92 Stat.
41 1471 (1978) (amending Pub. L. No. 92-340 and codified at 33 U.S.C. §§ 1222-
42 1232 and 46 U.S.C. §§ 214, 391a (2005)), authorizes the Secretary of
43 Homeland Security to establish vessel traffic systems for ports, harbors, and
44 other navigable waterways, and to control vessel traffic in areas determined to
45 be hazardous.

1 47. **The Aviation and Transportation Security Act (ATSA)**, 49 U.S.C. § 40101
2 note, 115 Stat. 597 (2004), as amended, established the Transportation
3 Security Administration (TSA), responsible for security in all modes of
4 transportation. Pursuant to ATSA, during a national emergency, the
5 Department of Homeland Security has the responsibility to: 1) coordinate all
6 forms of domestic transportation; 2) coordinate and oversee the
7 transportation-related responsibilities of Federal departments and agencies
8 (other than DOD and military departments); 3) coordinate and provide notice
9 regarding threats to transportation to Federal departments and agencies, and
10 State and local governments; and 4) carry out other duties relating to
11 transportation during a national emergency as prescribed by the Secretary of
12 Homeland Security.

13 48. **Section 46105(c) of Title 49, United States Code (2001)**, requires the
14 Administrator of the Federal Aviation Administration to prescribe regulations
15 and issue orders immediately when the Administrator determines that an
16 emergency exists relating to safety in air commerce that requires immediate
17 action.

18 49. **Section 20104(a)(1) of Title 49, United States Code (1994)**, authorizes
19 the Secretary of Transportation to immediately order restrictions and
20 prohibitions, if the Secretary decides that an unsafe condition or practice, or a
21 combination of unsafe conditions and practices involving a railroad, causes an
22 emergency situation involving a hazard of death or personal injury.

23 50. **The Safe, Accountable, Flexible, Efficient, Transportation Equity Act**,
24 Pub. L. No. 109-59, 199 Stat. 1144 (2005), provides that the Secretary of
25 Transportation may regulate the operation, routes, schedules, rates, fares,
26 tolls, rentals, and other charges of a public transportation system for the
27 purposes of national defense or in a national or regional emergency.

28 51. **Sections 5101 to 5127 of Title 49, United States Code (2005)**, authorize
29 the Secretary of Transportation to provide adequate protection against the risks
30 to life and property inherent in the transportation of hazardous material in
31 commerce.
32

33 H. Volunteer Services

34 52. **Section 1342 of Title 31, United States Code (2004)**, provides that the
35 Federal Government may accept volunteer services in "emergencies involving
36 the safety of human life or the protection of property."

37 53. **Sections 5152(a) and 5170a(2) of Title 42, United States Code**,
38 authorize the President to utilize the personnel and facilities of private disaster
39 relief organizations and to coordinate their activities.

40 54. **The Congressional Charter of 1905**, 36 U.S.C. §§ 300101-300111 (2005),
41 establishes the American Red Cross and its chapters as a corporation
42 responsible for maintaining a system of domestic and international relief.
43

II. Executive Orders

1. **Executive Order 12148**, 44 Fed. Reg. 43239 (1979), as amended, by Executive Order 13286, 68 Fed. Reg. 10619 (2003), designates the Department of Homeland Security as the primary agency for coordination of Federal disaster relief, emergency assistance, and emergency preparedness. The order also delegates the President's relief and assistance functions under the Stafford Act to the Secretary of Homeland Security, with the exception of the declaration of a major disaster or emergency.
2. **Executive Order 12196**, 45 Fed. Reg. 12769 (1980), Occupational Safety and Health Programs for Federal Employees, establishes program guidelines for Federal Executive Branch agencies to comply with the requirements of the Occupational Safety and Health Act.
3. **Executive Order 12382**, 47 Fed. Reg. 40531 (1982), as amended by numerous Executive Orders, establishes the President's National Security Telecommunications Advisory Committee (NSTAC) to provide the President with technical information, assessments, and advice concerning national security telecommunications policy and capabilities.
4. **Executive Order 12472**, 49 Fed. Reg. 13471 (1984), Assignment of National Security and Emergency Preparedness Telecommunications Functions, as amended by Executive Order 13286, 68 Fed. Reg. 10619 (2003), establishes the National Communications System (NCS), responsible for ensuring that the Federal Government has telecommunications services that will function under all conditions, including emergency situations, and the national telecommunications infrastructure is responsive to the national security and emergency preparedness needs.
5. **Executive Order 12580**, 52 Fed. Reg. 2923 (1987), Superfund Implementation, as amended by numerous Executive Orders, delegates to a number of Federal departments and agencies the authority and responsibility to implement certain provisions of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9615 *et seq.* Executive Order 12580 mandates a National Contingency Plan that provides for a National Response Team (NRT) composed of representatives of appropriate Federal departments and agencies for national planning and coordination of preparedness and response actions, and regional response teams as the regional counterpart to the NRT for planning and coordination of regional preparedness and response actions.
6. **Executive Order 12656**, 53 Fed. Reg. 47491 (1988), Assignment of Emergency Preparedness Responsibilities, as amended by Executive Order 13286, 68 Fed. Reg. 10619 (2003), assigns lead and support responsibilities for national security preparedness to Federal agencies.
7. **Executive Order 12742**, 56 Fed. Reg. 1079 (1991), National Security Industrial Responsiveness, as amended by Executive Order 13286, 68 Fed. Reg. 10619 (2003), authorizes certain Federal agencies to place orders for articles, products, and materials to meet national security requirements, and require priority performance of these orders.
8. **Executive Order 12777**, 56 Fed. Reg. 54757 (1991), Implementation of Section 311 of the Federal Water Pollution Control Act of October 18, 1972 (FWPCA), as amended, and the Oil Pollution Act of 1990, as amended by Executive Order 13286, 68 Fed. Reg. 10619 (2003), outline the responsibilities of certain Federal agencies in preventing and containing discharges of oil and hazardous substances.

- 1 9. **Executive Order 12919**, 59 Fed. Reg. 29625 (1994), National Defense Industrial
2 Resources Preparedness, as amended by Executive Order 13286, 68 Fed. Reg.
3 10619 (2003), delegates authorities and addresses national defense industrial
4 resource policies and programs under the Defense Production Act of 1950 (DPA),
5 as amended, except for the amendments to Title III of the DPA in the Energy
6 Security Act of 1980 and telecommunication authorities under Executive Order
7 12472, 49 Fed. Reg. 13471 (1984).
- 8 10. **Executive Order 13284**, 68 Fed. Reg. 4075 (2003), Amendment of Executive
9 Orders, and Other Actions, in Connection With the Establishment of the
10 Department of Homeland Security, amends previous Executive Orders in order to
11 make provisions for the establishment of the Department of Homeland Security.
- 12 11. **Executive Order 13286**, 68 Fed. Reg. 10619 (2003), Amendment of Executive
13 Orders, and Other Actions, in Connection With the Transfer of Certain Functions to
14 the Secretary of Homeland Security, amends previous Executive Orders to reflect
15 the transfer of certain functions to, and other responsibilities vested in, the
16 Secretary of Homeland Security, the transfer of certain agencies and agency
17 components to the Department of Homeland Security, and the delegation of
18 appropriate responsibilities to the Secretary of Homeland Security.
- 19 12. **Executive Order 13295**, 68 Fed. Reg. 17255 (2003), Revised List of
20 Quarantinable Communicable Diseases, specifies certain communicable diseases
21 for regulations providing for the apprehension, detention, or conditional release of
22 individuals to prevent the introduction, transmission, or spread of suspected
23 communicable diseases.
- 24 13. **Executive Order 13354**, 69 Fed. Reg. 53589 (2004), National Counterterrorism
25 Center, establishes a policy to enhance the interchange of terrorism information
26 among agencies and creates the National Counterterrorism Center (NCC) to serve
27 as the primary organization in the U.S. Government for analyzing and integrating
28 all intelligence possessed or acquired by the U.S. Government pertaining to
29 terrorism and counterterrorism.
- 30 14. **Executive Order 13356**, 69 Fed. Reg. 53599 (2004), Strengthening the Sharing
31 of Terrorism Information to Protect Americans, sets priorities for Federal agencies
32 when designing and using information systems and in disseminating information
33 among agencies.

34 III. Other Presidential Directives

- 36 1. **National Security Directive 42: National Policy for the Security of National**
37 **Security Telecommunications and Information Systems**, July 5, 1990,
38 establishes policy objectives and an organizational structure to guide activities to
39 secure national security systems from exploitation. NSD-42 also establishes a
40 mechanism for policy development and dissemination, and assigns responsibilities
41 for implementation.
- 42 2. **Presidential Decision Directive 39: United States Policy on**
43 **Counterterrorism**, June 21, 1995, establishes a policy to deter, defeat, and
44 respond vigorously to all terrorist attacks on the United States and its territories,
45 citizens, and facilities, including the use of weapons of mass destruction.
- 46 3. **Presidential Decision Directive 62: Protection Against Unconventional**
47 **Threats to the Homeland and Americans Overseas**, May 22, 1998, outlines
48 the roles of various Federal departments and agencies in working with State and
49 local governments and the private sector to prevent and respond to terrorist
50 attacks and protect critical infrastructure.

- 1 4. **Homeland Security Presidential Directive-1: Organization and Operation**
2 **of the Homeland Security Council**, October 29, 2001, establishes the Homeland
3 Security Council (HSC), which ensures the coordination of homeland security-
4 related activities among executive departments and agencies and promotes the
5 effective development and implementation of all homeland security policies.
- 6 5. **Homeland Security Presidential Directive-2: Combating Terrorism Through**
7 **Immigration Policies**, October 29, 2001 (as amended by Homeland Security
8 Presidential Directive-5), establishes policies to deny entry into the United States of
9 aliens associated with terrorist activity; locate any such aliens already present in
10 the United States; end the abuse of student visas and the training of certain
11 international students and foreign nationals in sensitive areas; assure maximum
12 possible compatibility of immigration, customs, and visa policies with neighboring
13 countries; and increase the sharing of immigration and customs information.
- 14 6. **Homeland Security Presidential Directive-3: Homeland Security Advisory**
15 **System**, March 11, 2002 (as amended by Homeland Security Presidential
16 Directive-5), establishes the Homeland Security Advisory System, to provide a
17 comprehensive and effective means to disseminate information regarding the risk
18 of terrorist acts to Federal, State, and local authorities and to the American people.
- 19 7. **Homeland Security Presidential Directive-4: National Strategy to Combat**
20 **Weapons of Mass Destruction**, December 2002, sets forth the National Strategy
21 to Combat Weapons of Mass Destruction through counterproliferation,
22 strengthened nonproliferation, and consequence management.
- 23 8. **Homeland Security Presidential Directive-5: Management of Domestic**
24 **Incidents**, February 28, 2003, requires the Secretary of Homeland Security to
25 develop, submit, and administer a National Incident Management System (NIMS)
26 that will provide a consistent nationwide approach for Federal, State, and local
27 governments to work effectively and efficiently together to prepare for, respond to,
28 and recover from domestic incidents, regardless of cause, size, or complexity.
29 HSPD-5 requires the Secretary of Homeland Security, after consultation with
30 appropriate Federal officials, to develop, submit, and administer a National
31 Response Plan (NRP). The directive orders the heads of Federal departments and
32 agencies to adopt the NIMS and NRP, and provide assistance to the Secretary in
33 the development and maintenance of the NIMS and NRP. HSPD-5 also provides
34 that Federal departments and agencies shall make adoption of the NIMS by States
35 and local entities a requirement, to the extent permitted by law, for providing
36 Federal preparedness assistance through grants, contracts, and other activities.
- 37 Pursuant to HSPD-5, the Secretary of Homeland Security is the principal Federal
38 official (PFO) for domestic incident management. HSPD-5 also assigns specific
39 responsibilities to the Attorney General, Secretary of Defense, Secretary of State,
40 and the Assistants to the President for Homeland Security and National Security
41 Affairs, and directs the heads of all Federal departments and agencies to provide
42 their full and prompt cooperation, resources, and support, as appropriate and
43 consistent with their own responsibilities for protecting national security, to the
44 Secretary of Homeland Security, Attorney General, Secretary of Defense, and
45 Secretary of State in the exercise of leadership responsibilities and missions
46 assigned.

HSPD-5 provides that the Secretary of Homeland Security will coordinate with State and local governments and private and nongovernmental sectors to ensure adequate planning, equipment, training, and exercise activities. The Secretary must provide assistance to State and local governments to develop all-hazards plans and capabilities, and will ensure that State, local, and Federal plans are compatible.

9. **Homeland Security Presidential Directive-6: Integration and Use of Screening Information**, September 16, 2003, mandates the implementation of a national policy that will: 1) develop, integrate, and maintain thorough, accurate, and current information about individuals known or appropriately suspected to be or have been engaged in conduct constituting, in preparation for, in aid of, or related to terrorism; and 2) use that information to support a) Federal, State, local, territorial, tribal, foreign-government, and private-sector screening processes, and b) diplomatic, military, intelligence, law enforcement, immigration, visa, and protective processes.
10. **Homeland Security Presidential Directive-7: Critical Infrastructure Identification, Prioritization, and Protection**, December 17, 2003, establishes a national policy for Federal departments and agencies to identify and prioritize U.S. critical infrastructure and key resources and to protect them from terrorist attacks. The Secretary of Homeland Security is the principal Federal official responsible for leading, integrating, and coordinating implementation efforts among Federal departments and agencies, State and local governments, and the private sector to protect critical infrastructure and key resources. HSPD-7 mandates the creation of a comprehensive, integrated National Plan for Critical Infrastructure and Key Resources Protection to outline national goals, objectives, and milestones.
11. **Homeland Security Presidential Directive-8: National Preparedness**, December 17, 2003, establishes policies to strengthen the preparedness of the United States to prevent and respond to threatened or actual domestic terrorist attacks, major disasters, and other emergencies. HSPD-8 requires the development of a National Preparedness Goal that establishes measurable readiness priorities, targets, and standards that appropriately balance the potential threat and magnitude of terrorist attacks, major disasters, and other emergencies with the resources required to prevent, respond to, and recover from them. HSPD-8 also establishes mechanisms for improved delivery of Federal preparedness assistance to State and local governments, and outlines actions to strengthen preparedness capabilities of Federal, State, and local entities.
12. **Homeland Security Presidential Directive-9: Defense of United States Agriculture and Food**, January 30, 2004, establishes a national policy to defend the agriculture and food system against terrorist attacks, major disasters, and other emergencies.
13. **Homeland Security Presidential Directive-10: Biodefense for the 21st Century**, April 28, 2004, establishes strategies for preventing, protecting against, and mitigating biological weapons attacks perpetrated against homeland and global interests.
14. **Homeland Security Presidential Directive-11: Comprehensive Terrorist-Related Screening Procedures**, August 27, 2004, builds upon HSPD-6 by mandating the development of a strategy to enhance the effectiveness of terrorist-related screening activities and implement comprehensive, coordinated, and systematic terrorist-screening procedures and capabilities.

- 1 15. **Homeland Security Presidential Directive-12: Policy for a Common**
2 **Identification Standard for Federal Employees and Contractors**, August 27,
3 2004, establishes a mandatory, Governmentwide standard for secure and reliable
4 forms of identification issued by the Federal government to its employees and
5 contractors (including contractor employees).
- 6 16. **Homeland Security Presidential Directive-13: Maritime Security Policy**,
7 December 21, 2004, establishes the policy, guidelines, and implementation actions
8 to enhance national and homeland security by protecting the Maritime Domain and
9 U.S. maritime interests.
- 10 17. **Homeland Security Presidential Directive-14: Domestic Nuclear Detection**,
11 April 15, 2005, seeks to protect against the unauthorized importation, possession,
12 storage, transportation, development, or use of a nuclear explosive device, fissile
13 material, or radiological material in the United States, and to protect against attack
14 using such devices or materials against the people, territory, or interests of the
15 United States.
- 16 18. **Homeland Security Presidential Directive-18: Medical Countermeasures**
17 **against Weapons of Mass Destruction**, January 31, 2007, establishes an
18 approach for the development and acquisition of medical countermeasures for
19 attacks involving chemical, biological, radiological, or nuclear agents.
- 20 19. **Homeland Security Presidential Directive-19: Combating Terrorist Use of**
21 **Explosives in the United States**, February 12, 2007, establishes a national
22 policy, and calls for the development of a national strategy and implementation
23 plan, on the prevention and detection of, protection against, and response to
24 terrorist use of explosives in the United States.